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**APRIL 12, 2002**

# SENATOR BILL MORROW



## CAPITOL UPDATE

### THE DAVIS DOUBLE STANDARD

Neglecting the interest's of California rate payers the Davis Administration has applied a double-standard to the long term power rates, asking the Federal Energy Regulatory Commission (FERC) to invalidate them because they are "unjust and unreasonable" while passing them through to the California consumers. This contradiction could jeopardize the sale of over \$11 billion in energy bonds.

#### BACKGROUND

In 2001, the Legislature passed AB 1X authorizing the Department of Water Resources (DWR) to continue purchasing electricity on behalf of customers. DWR signed power supply contracts on behalf of the State for more than \$40 billion over the next 20 years. AB 1X states that "any just and reasonable review...shall be conducted and determined by the department." No review was conducted. DWR cannot recover costs from ratepayers unless its costs are "just and reasonable." The Public Utilities Commission (PUC) has a general statutory obligation to guarantee electricity rates that are "just and reasonable" to ratepayers [(Public Utilities Code § 451, 728) <http://www.leginfo.ca.gov/calaw.html> ].

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## **PUC ADOPTS RATE AGREEMENT ON FEBRUARY 21, 2002**

On February 21, the PUC approved a voluntary agreement with DWR to allocate costs for power to ratepayers. DWR represented to the PUC that its power supply contracts and costs thereunder are “just and reasonable.” The PUC accepted DWR’s claims and adopted its first revenue requirement, stating in its decision:

*“We acknowledge parties’ disagreement regarding the manner in which DWR sought to fulfill its procedural and substantive obligation to “conduct” any reasonableness review...”*

*“We make no independent verification as to whether each cost element has been appropriately considered by DWR.”*

## **PUC CHALLENGES CONTRACTS ON FEBRUARY 26, 2002**

On February 26, the PUC filed a complaint with FERC on behalf of the State of California, seeking to invalidate DWR’s contracts on the grounds that they are “unjust and unreasonable” under the Federal Power Act. The PUC contends that DWR faced a market environment dominated by the exercise of market power whereby sellers’ power in the forward market had been greatly enhanced. According to the PUC, “despite its best efforts, DWR was forced to pay unjust and unreasonable prices...in order to secure the power necessary to ensure that the lights stayed on in California.” Within its complaint, the PUC makes the following statement:

*“The contract prices are unlawful by any reasonable measure....During early 2001 when contracts were negotiated, forward prices were not just and reasonable because the markets were dysfunctional.”*

## **THREAT TO ENERGY BOND**

On March 14, an analysis of the state’s cash-flow situation, illustrated the urgent need to sell the energy bond (<http://republican.sen.ca.gov/opeds/99/oped1254.asp>). It is unclear how bond buyers would react to a bond to pay back the costs of energy as long as the state is simultaneously claiming that the underlying contracts are both just and unjust, reasonable and unreasonable. However, failure to sell the bonds soon would likely precipitate a major cash-flow crisis.

If you know someone who would like to subscribe to **Senator Morrow's Capitol Update** or if you wish to unsubscribe, go to: <http://republican.sen.ca.gov/web/38/pubs.asp?sub=1>

To learn more about **Senator Morrow** or your state government, visit Senator Morrow's website at: <http://www.sen.ca.gov/morrow>

For transcripts of the Senate's investigation of the energy crisis, visit:  
<http://republican.sen.ca.gov/web/38/news/select.asp>

To learn more about taxes and spending, go to:  
<http://republican.sen.ca.gov/web/38/News/taxes.asp>

Useful tips to combat the **high cost of gasoline** in California, please visit:  
<http://republican.sen.ca.gov/web/38/news/gasoline.asp>

### *Great Links...*

*The State of California Homepage...*

<http://www.ca.gov>

*The Howard Jarvis Taxpayer's Association...*

<http://www.hjta.org/2001-06-index.html>

*Gas Price Watch...*

<http://www.gaspricewatch.com>